

IC 8-1-8.8

Chapter 8.8. Utility Generation and Clean Coal Technology

IC 8-1-8.8-1

Legislative findings and declaration of purpose

Sec. 1. (a) The general assembly makes the following findings:

- (1) Growth of Indiana's population and economic base has created a need for new energy generating facilities in Indiana.
- (2) The development of a robust and diverse portfolio of energy generating capacity, including the use of renewable energy resources, is needed if Indiana is to continue to be successful in attracting new businesses and jobs.
- (3) Indiana has considerable natural resources that are currently underutilized and could support development of new energy generating facilities at an affordable price.
- (4) Certain regions of the state, such as southern Indiana, could benefit greatly from new employment opportunities created by development of new energy generating facilities utilizing the plentiful supply of coal from the geological formation known as the Illinois basin.
- (5) Technology can be deployed that allows high sulfur coal from the geological formation known as the Illinois Basin to be burned efficiently while meeting strict state and federal air quality limitations. Specifically, the state should encourage the use of advanced clean coal technology, such as coal gasification.
- (6) It is in the public interest for the state to encourage the construction of new energy generating facilities that increase the in-state capacity to provide for current and anticipated energy demand at a competitive price.

(b) The purpose of this chapter is to enhance Indiana's energy security and reliability by ensuring all of the following:

- (1) Indiana's energy generating capacity continues to be adequate to provide for Indiana's current and future energy needs, including the support of the state's economic development efforts.
- (2) The vast and underutilized coal resources of the Illinois Basin are used as a fuel source for new energy generating facilities.
- (3) The electric transmission system within Indiana is upgraded to distribute additional amounts of electricity more efficiently.
- (4) Jobs are created as new energy generating facilities are built in regions throughout Indiana.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-2

"Clean coal and energy projects" defined

Sec. 2. As used in this chapter, "clean coal and energy projects" means any of the following:

- (1) Any of the following projects:

- (A) Projects at new energy generating facilities that employ the use of clean coal technology and that are fueled primarily by coal or gases, derived from coal from the geological formation known as the Illinois Basin.
- (B) Projects to provide advanced technologies that reduce regulated air emissions from existing energy generating plants that are fueled primarily by coal or gases from coal from the geologic formation known as the Illinois Basin, such as flue gas desulfurization and selective catalytic reduction equipment.
- (C) Projects to provide electric transmission facilities to serve a new energy generating facility.
- (2) Projects to develop alternative energy sources, including renewable energy projects.
- (3) The purchase of fuels produced by a coal gasification facility.
- (4) Projects described in subdivisions (1) through (3) that use coal bed methane.

As added by P.L.159-2002, SEC.6. Amended by P.L.174-2005, SEC.2.

IC 8-1-8.8-3

"Clean coal technology" defined

Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

- (1) that is used in a new or existing energy generating facility and directly or indirectly reduces airborne emissions of sulfur, mercury, or nitrogen oxides or other regulated air emissions associated with the combustion or use of coal; and
- (2) that either:
 - (A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or
 - (B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-4

"Coal gasification facility" defined

Sec. 4. As used in this chapter, "coal gasification facility" means a facility in Indiana that uses a manufacturing process that converts coal into a clean gas that can be used as a fuel to generate energy.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-5

"Costs associated with qualified utility system property" defined

Sec. 5. As used in this chapter, "costs associated with qualified utility system property" means capital, operation, maintenance, depreciation, tax costs, and financing costs of or for qualified utility system property.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-6

"Eligible business" defined

Sec. 6. As used in this chapter, "eligible business" means an energy utility (as defined in IC 8-1-2.5-2) that:

- (1) proposes to construct or repower a new energy generating facility;
- (2) proposes to construct or repower a project described in section 2(1) or 2(2) of this chapter;
- (3) undertakes a project to develop alternative energy sources, including renewable energy projects; or
- (4) purchases fuels produced by a coal gasification facility.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-7

"Group" defined

Sec. 7. As used in this chapter, "group" refers to the forecasting group established by IC 8-1-8.5-3.5.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-8

"New energy generating facility" defined

Sec. 8. (a) As used in this chapter, "new energy generating facility" refers to a facility that satisfies all of the following:

- (1) The facility is fueled primarily by coal or gases from coal from the geologic formation known as the Illinois Basin.
- (2) The facility is a:
 - (A) newly constructed or newly repowered energy generation plant; or
 - (B) newly constructed generation capacity expansion at an existing facility;dedicated primarily to serving Indiana retail customers.
- (3) The repowering, construction, or expansion of the facility was begun by an Indiana utility after July 1, 2002.
- (4) Except for a facility that is a clean coal and energy project under section 2(2) of this chapter, the facility has an aggregate rated electric generating capacity of at least one hundred (100) megawatts for all units at one (1) site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam.

(b) The term includes the transmission lines and associated equipment employed specifically to serve a new energy generating facility.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-9

"Qualified utility system property" defined

Sec. 9. As used in this chapter, "qualified utility system property" means any new energy generating facility used, or to be used, in whole or in part, on a utility system to provide retail energy service (as defined in IC 8-1-2.5-3) regardless of whether that service is provided under IC 8-1-2.5 or another provision of this article.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-10

"Renewable energy resources" defined

Sec. 10. (a) As used in this chapter, "renewable energy resources" means alternative sources of renewable energy, including the following:

- (1) Energy from wind.
- (2) Solar energy.
- (3) Photovoltaic cells and panels.
- (4) Dedicated crops grown for energy production.
- (5) Organic waste biomass.
- (6) Hydropower from existing dams.
- (7) Fuel cells.
- (8) Energy from waste to energy facilities producing steam not used for the production of electricity.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:

- (1) Waste wood.
- (2) Tires.
- (3) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.
- (4) Construction or demolition debris.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-11

Incentives for clean coal and energy projects; application to commission; commission's time for determining eligibility

Sec. 11. (a) The commission shall encourage clean coal and energy projects by creating the following financial incentives for clean coal and energy projects, if the projects are found to be reasonable and necessary:

- (1) The timely recovery of costs incurred during construction and operation of projects described in section 2(1) or 2(2) of this chapter.
- (2) The authorization of up to three (3) percentage points on the return on shareholder equity that would otherwise be allowed to be earned on projects described in subdivision (1).
- (3) Financial incentives for the purchase of fuels produced by a coal gasification facility, including cost recovery and the incentive available under subdivision (2).
- (4) Financial incentives for projects to develop alternative

energy sources, including renewable energy projects.

(5) Other financial incentives the commission considers appropriate.

(b) An eligible business must file an application to the commission for approval of a clean coal and energy project under this section. This chapter does not relieve an eligible business of the duty to obtain any certificate required under IC 8-1-8.5 or IC 8-1-8.7. An eligible business seeking a certificate under IC 8-1-8.5 or IC 8-1-8.7 and this chapter for one (1) project may file a single application for all necessary certificates. If a single application is filed, the commission shall consider all necessary certificates at the same time.

(c) The commission shall promptly review an application filed under this section for completeness. The commission may request additional information the commission considers necessary to aid in its review.

(d) The commission shall, after notice and hearing, issue a determination of a project's eligibility for the financial incentives described in subsection (a) not later than one hundred twenty (120) days after the date of the application, unless the commission finds that the applicant has not cooperated fully in the proceeding.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-12

Recovery of costs; rate adjustment mechanisms

Sec. 12. (a) The commission shall provide financial incentives to eligible businesses for new energy generating facilities in the form of timely recovery of the costs incurred in connection with the construction, repowering, expansion, operation, or maintenance of the facilities.

(b) An eligible business seeking authority to timely recover the costs described in subsection (a) must apply to the commission for approval of a rate adjustment mechanism in the manner determined by the commission.

(c) An application must include the following:

(1) A schedule for the completion of construction, repowering, or expansion of the new energy generating facility for which rate relief is sought.

(2) Copies of the most recent integrated resource plan filed with the commission.

(3) The amount of capital investment by the eligible business in the new energy generating facility.

(4) Other information the commission considers necessary.

(d) The commission shall allow an eligible business to recover the costs associated with qualified utility system property if the eligible business provides substantial documentation that the expected costs associated with qualified utility system property and the schedule for incurring those costs are reasonable and necessary.

(e) The commission shall allow an eligible business to recover the costs associated with the purchase of fuels produced by a coal

gasification facility if the eligible business provides substantial documentation that the costs associated with the purchase are reasonable and necessary.

(f) A retail rate adjustment mechanism proposed by an eligible business under this section may be based on actual or forecasted data. If forecast data is used, the retail rate adjustment mechanism must contain a reconciliation mechanism to correct for any variance between the forecasted costs and the actual costs.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-13

Monthly report to department of commerce required

Sec. 13. An eligible business shall file a monthly report with the department of commerce stating the following information:

- (1) The amount of Illinois Basin coal, if any, purchased during the previous month for use in a new energy generating facility.
- (2) The amount of any fuel produced by a coal gasification facility and purchased by the eligible business during the previous month.
- (3) Any other information the department of commerce may reasonably require.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-14

Annual study of using renewable energy resources

Sec. 14. The group shall conduct an annual study on the use, availability, and economics of using renewable energy resources in Indiana. Each year, the group shall submit a report on the study to the commission for inclusion in the commission's annual report to the regulatory flexibility committee described in IC 8-1-2.5-9 and IC 8-1-2.6-4. The report must include suggestions from the group to encourage the development and use of renewable energy resources and technologies appropriate for use in Indiana.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-15

Commission's power to review approved projects

Sec. 15. The commission may review any project approved under this chapter to determine that the project continues to comply with the commission's order initially approving incentives under this chapter. The commission may revoke any incentive approved in the order if the commission finds that the project no longer complies with the provisions of the order concerning the incentive.

As added by P.L.159-2002, SEC.6.